



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Fenical and Jensen Art Unit: 1651
 Application No.: 09/991,518 Examiner: I. Marx
 Filing Date: November 16, 2001 Confirmation No.: 7755
 Title: MARINE ACTINOMYCETE TAXON FOR DRUG AND
 FERMENTATION PRODUCT DISCOVERY

Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313

DECLARATION OF
APPLICANT UNDER 37 C.F.R. § 1.132

Sir:

I, Dr. Paul R. Jensen, do hereby declare and state that:

1. I am a co-inventor of the subject matter described and claimed in the U.S. Patent Application Serial No. 09/991,518, filed on November 16, 2001 entitled, "Marine actinomycete taxon for drug fermentation product discovery".
2. I am familiar with the prosecution history of Patent Application Serial No. 09/991,518.
3. I understand that the Examiner rejected the claims because the claimed subject matter are derived from specific strains of *Salinospora* and are considered biological material which must be made publicly available.
4. I declare that SEQ ID NO:3 and SEQ ID NO:4, corresponding to Genbank Accession Nos. AY040619 and AY040620, respectively, are identical.
5. I declare that SEQ ID NO:4 was derived from strain CNH646, which was deposited September 27, 2000 and is ATCC No. PTA-2501, and that SEQ ID NO:5 was

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derived from strain CNH898, which is identical to strain CNB476, which was deposited June 30, 2003 and is ATCC No. PTA-5275.

6. I further declare that all statements made herein of knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

9/9/05
Date

Paul R. Jensen
Paul R. Jensen, Ph.D.

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